



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-138]

Pentafluoroethane (R-125) from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and/or exporters of pentafluoroethane (R-125) from the People's Republic of China (China). The period of investigation is January 1, 2020, through December 31, 2020.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6172.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 2021, Commerce published the *Preliminary Determination*.¹ The petitioner in this investigation is Honeywell International, Inc. In addition to the Government of China, the mandatory respondents in this investigation are Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd. (Juxin) and Zhejiang Sanmei Chemical Ind. Co., Ltd. (Sanmei).

A summary of the events that occurred since Commerce published the *Preliminary Determination* and a full discussion of the issues raised by parties for this final determination are

¹ See *Pentafluoroethane (R-125) from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 86 FR 33648 (June 25, 2021), and accompanying Preliminary Decision Memorandum.

provided in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product covered by this investigation is R-125 from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. We addressed these comments in the *AD Preliminary Determination* and preliminarily modified the scope of this and the companion antidumping duty investigation.⁵ We established a period of time for parties to address scope issues in scope case and rebuttal briefs,⁶ and we received such comments, which we addressed in the Final Scope Decision Memorandum.⁷ After analyzing interested parties' comments, we made certain changes to the scope of this and the

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Pentafluoroethane (R-125) from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ See *Pentafluoroethane (R-125) from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 86 FR 8589 (February 8, 2021) (*Initiation Notice*).

⁵ See *Pentafluoroethane (R-125) from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 45959 (August 17, 2021) (*AD Preliminary Determination*) at 45960; *see also* Memorandum, "Preliminary Scope Decision Memorandum," dated August 10, 2021 (Preliminary Scope Decision Memorandum).

⁶ See Preliminary Scope Decision Memorandum at 2-3.

⁷ See Memorandum, "Final Scope Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

concurrent CVD investigation that published in the *Preliminary Determination*. See Appendix I to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised is attached to this notice as Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part on facts otherwise available, and because it found that one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, it drew an adverse inference, where appropriate, in selecting from among the facts available.⁹ As described in the *Preliminary Determination*, we applied an adverse inference in the selection of facts available for determining a subsidy rate for the four companies that did not respond to Commerce’s quantity and value (Q&V) questionnaire: Arkema Daikin Advanced Fluorochemicals (Changsu) Co., Ltd.; Daikin Fluorochemicals (China) Co., Ltd.; Hongkong Richmax Ltd.; and Weitron International Refrigeration Equipment (Kunshan) Co., Ltd.¹⁰ For a full discussion of our application of adverse facts available (AFA), *see* the *Preliminary Determination*.¹¹

⁸ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁹ See sections 776(a) and 776(b) of the Act.

¹⁰ See Preliminary Decision Memorandum at 6-18.

¹¹ *Id.* at “Use of Facts Otherwise Available and Adverse Inferences.”

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.¹²

Changes Since the Preliminary Determination

Based on our review and the analysis of the comments received from parties and our verification findings, we made changes to our subsidy rate calculations for Juxin and Sanmei. As a result of these changes, Commerce also revised the all-others rate. Commerce also revised the AFA rate applied to the companies which did not respond to the Q&V questionnaire to include the subsidy programs included in the Post-Preliminary Analysis Memo.¹³ For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated individual estimated subsidy rates for Juxin and Sanmei. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Therefore, Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly ranged sales data.¹⁴

¹² See Juxin's Letter, "Submission of In-Lieu-of-Verification (ILOV) Questionnaire Response," dated September 23, 2021; and Sanmei's Letter, "Submission of In-Lieu-of-Verification (ILOV) Questionnaire Response," dated October 8, 2021.

¹³ See Memorandum, "Post-Preliminary Analysis in the Countervailing Duty Investigation of Pentafluoroethane (R-125) from the People's Republic of China," dated September 9, 2021 (Post-Preliminary Analysis Memo); *see also* Issues and Decision Memorandum at Appendix II for the revised AFA rate calculation.

¹⁴ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's proprietary U.S. sale quantities for the merchandise under consideration; (B) a simple average of the estimated subsidy rates calculated

Commerce determines that the following total estimated net countervailable subsidy rates exist:

| Company | Subsidy Rate (percent) |
|---|-----------------------------------|
| Arkema Daikin Advanced Fluorochemicals (Changsu) Co., Ltd. | 306.57 |
| Daikin Fluorochemicals (China) Co., Ltd. | 306.57 |
| Hongkong Richmax Ltd. | 306.57 |
| Weitron International Refrigeration Equipment (Kunshan) Co., Ltd. | 306.57 |
| Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd. ¹⁵ | 14.66 |
| Zhejiang Sanmei Chemical Ind. Co., Ltd. ¹⁶ | 12.75 |
| All Others | 14.43 |

Disclosure

Commerce intends to disclose its calculations and analysis performed in this final determination to interested parties within five days of the date of public announcement to parties in this proceeding or, if there is no public announcement, within five days of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section, that were entered, or withdrawn from warehouse, for consumption on or after June 25, 2021, the date of publication of the *Preliminary Determination* in the *Federal Register*. In

for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

¹⁵ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross owned with Juxin: Juhua Group Corporation; Zhejiang Juhua Co., Ltd.; Ningbo Juhua Chemical & Science Co., Ltd.; Zhejiang Quzhou Fluoxin Chemicals Co., Ltd.; and Zhejiang Juhua Chemical Mining Co., Ltd.

¹⁶ As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross owned with Sanmei: Fujian Qingliu Dongying Chemical Ind. Co. Ltd.

accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for subject merchandise entered, or withdrawn from warehouse, on or after October 23, 2021.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty (CVD) order, reinstate the suspension of liquidation under section 706(a) of the Act, and require cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited, or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of R-125 from China no later than 45 days after our final determination.

If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to administrative protective order (APO) of their

responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 705(d) and 777(i) of the Act.

Dated: December 30, 2021.

Ryan Majerus,
*Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is pentafluoroethane (R-125), or its chemical equivalent, regardless of form, type or purity level. R-125 has the Chemical Abstracts Service (CAS) registry number of 354-33-6 and the chemical formula C₂HF₅. R-125 is also referred to as Pentafluoroethane, Genetron HFC 125, Khladon 125, Suva 125, Freon 125, and Fc-125.

R-125 contained in blends that do not conform to ANSI/ASHRAE Standard 34 is included in the scope of this investigation when R-125 constitutes the largest relative component by volume, on an actual percentage basis, of the blend.¹⁷ However, R-125 incorporated into a blend that conforms to ANSI/ASHRAE Standard 34 is excluded from the scope of this investigation. When R-125 is blended with other products and otherwise falls under the scope of this investigation, only the R-125 component of the mixture is covered by the scope of this investigation.

Subject merchandise also includes purified and unpurified R-125 that is processed in a third country or otherwise outside the customs territory of the United States, including, but not limited to, purifying, blending, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope R-125. The scope also includes R-125 that is commingled with R-125 from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

Excluded from the scope is merchandise covered by the scope of the antidumping order on *Hydrofluorocarbon Blends from the People's Republic of China*, including merchandise subject to the affirmative anti-circumvention determination in *Hydrofluorocarbon Blends from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order; Unfinished R-32/R-125 Blends*, 85 FR 15428 (March 18, 2020). See *Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order*, 81 FR 55436 (August 19, 2016) (the Blends Order).

R-125 is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2903.39.2035 and 2903.39.2038. Merchandise subject to the scope may also be entered under HTSUS subheadings 2903.39.2045, 3824.78.0020, and 3824.78.0050. The HTSUS subheadings and CAS registry number are provided for convenience and customs purposes. The written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memo

- I. Summary
- II. Background
- III. Scope Comments

¹⁷ “Largest relative component by volume, on an actual percentage basis” means that the percentage of R-125 contained in a blend is larger than the individual percentages of all the other components. For example, R-125 contained in a blend that does not conform to ANSI/ASHRAE Standard 34 and which contains 35% R-125 by volume is covered by the scope of the investigations if no other component part of the blend equals or exceeds 35% of the volume of the blend.

- IV. Final Affirmative Determination of Critical Circumstances
- V. Subsidies Valuation Information
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Analysis of Programs
- VIII. Discussion of the Issues
 - Comment 1: Application of Adverse Facts Available (AFA) to the Export Buyer's Credit Program (EBCP)
 - Comment 2: Application of AFA to the Provision of Electricity for Less-Than-Adequate-Renumeration (LTAR) Program
 - Comment 3: Application of AFA to Other Subsidy Programs
 - Comment 4: Ministerial Error in the Subsidy Rate Calculation for the Electricity for LTAR Program for Sanmei
 - Comment 5: Selection of Fluorspar for LTAR Benchmark Prices
 - Comment 6: Creditworthiness of Juhua Group Corporation (Juhua Group)
 - Comment 7: Undervaluation of the Renminbi (RMB)
 - Comment 8: Seasonality in the Critical Circumstances Analysis
- IX. Recommendation

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